



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

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OFFICE OF
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SEP 04 2014

Mr. Mark A. Echo Hawk
Counsel to Shoshone-Bannock Tribes
505 Pershing Avenue, Suite 100
Post Office Box 6119
Pocatello, Idaho 83205-6119

**RE: Tribal Employment Rights Ordinance
Unilateral Administrative Order (UAO) for Remedial Design and Remedial Action
EPA Docket No. CERCLA 10-2013-0116
Interim Record of Decision Amendment
FMC Operable Unit of the Eastern Michaud Flats CERCLA Site
Fort Hall Indian Reservation near Pocatello, ID**

Dear Mr. Echo Hawk:

This is in response to your letter addressed to Charles Ordine and Kevin Rochlin, dated November 21, 2013, requesting that the Environmental Protection Agency support compliance with the Shoshone-Bannock Tribes' Tribal Employment Rights Ordinance by requiring EPA's technical assistance contractor, Booz Allen Hamilton, to comply with TERO in connection with the remedial cleanup work under the June 2013 Unilateral Administrative Order issued to FMC. Your letter also invites the EPA to consult with the Tribes' TERO Director and Fort Hall Business Council on this issue. I am responding on behalf of the EPA. I have recently been assigned to replace Charles Ordine as regional legal counsel for remedial work to be conducted under the UAO.

BAH provides technical assistance to the EPA in overseeing the work at the FMC Operable Unit under EPA's RCRA Enforcement, Permitting and Assistance (REPA5) contract. The REPA5 contract is a fixed rate contract and provides that the contract pricing includes all applicable Federal, state and local taxes and duties. The contractor is responsible for making sure it accounts for all applicable taxes and fees in its bid or proposal. As such, matters of any applicable TERO fees and other requirements need to be resolved with the contractor. The contract makes the matter of TERO compliance the responsibility of the contractor and thus should be addressed directly to BAH.

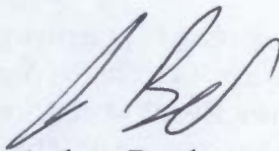
However, BAH has already taken action in this regard worth noting. BAH has hired Cooper Zietz Engineers, Inc., a Native American-owned engineering firm specializing in construction inspection and management, quality assurance and quality control, design, and project planning and management services to assist with on-site oversight activities. CZE has successfully completed a number of projects on tribal land throughout the Pacific Northwest (see http://www.coopercm.com/services/services_planning_and_design.html). Also, it is a Shoshone-Bannock Tribes TERO certified contractor (Certification 2014-AN-251) and has a Shoshone-Bannock

Tribes Business License. BAH is expected to use CZE to do most of the contractor oversight of FMC's field work.

In past discussions concerning the UAO, the Tribes have expressed concerns about FMC's ability to properly implement the remedy and the need for vigilant oversight. As expressed in the EPA letter from Richard Albright to Chairman Small, dated May 31, 2013, the EPA agrees that vigilant oversight is critically important and therefore plans to provide full time oversight during all periods of active remedy implementation. Initial grading work under the UAO is expected to begin in the next week or two and the EPA intends to have at least one EPA employee, or our authorized representative, on-site during all construction activities. The EPA will be coordinating with the Tribes in order to provide Tribal staff with the opportunity to participate in overseeing FMC's work. Section XIII of the UAO requires FMC to provide the EPA, including our authorized representatives, and the Tribes and State when accompanied by EPA, access at reasonable times to the FMC Operable Unit for, among other things, assessing compliance with the UAO.

If you would like to discuss this matter further or have questions or concerns, I can be reached at 206-553-1222.

Sincerely,



Andrew Boyd
Associate Regional Counsel

cc: Fort Hall Business Council
Mr. Leonard P. Wadsworth, Chairman TERO Commission
Mr. William Bacon, Shoshone-Bannock Tribes Attorney
Mr. Kelly Wright, Environmental Waste Management Program Director
Ms. Beth Sheldrake, EPA Site Cleanup Unit 1 Manager
Mr. Jonathan Williams, EPA Remedial Project Manager